G. R. S. IX-5]

Previous references.

Bund 238-95 1897-98
65-96 192
(G. 7.)

Later references.

G. M 111-98

File No. 33 -97

Serial Nos. 1 -7

GENERAL AND REVENUE SECRETARIAT

Serial Nos. 1 - 7

P-17

Part B for November 97

SUBJECT.

Public Prosecutors charges for appearing in the Courts in the Case of Certain lands acquired for the Victoria Hospital

To The Dy Commissioner Bangalore & Comptroller Bgore

No 5253-54 Dated 10.11.97

Forwards the bill for Rs 530-14-6 for the Comptroller for audit.

Secretary Committee

WD 2233—GPB—20,000—14-6-20

Q 2741 & 2816/97

Q.7.42.97

Gen. 31]

OFFICE OF THE DEWAN OF MYSORE
25734
17. SEP 1897

1897

24/9/97

From The Hr. Commissioner
Bangalore

To The Secretary to the Govt. of Madras (Rev. Medical Depts.)

Dated 15th September 1897

Despatched

Received

General No. 2741

Enclosure No. 1

Q.7.33-971

Submits for sanction a bill for Rs 530-14-9 being the Public Prosecutor's charges for obtaining in the Writ: Judge's Court in the case of certain land required for the Victoria Hospital in the town of Bangalore.

Subd to Secy

It is reported that the case was decided against Govt. No further particulars are given.

The appeal is about to be preferred to the Chief Court

The amount charged in the bill is large and it is said that it is the same as that mentioned in the decree.

May the judgt + decree be called for for perusal — GK 21/9/97

Now our present purpose a copy of the decree is enough — Please call for it GK 21-9-97

17-9-97

Letter sent with papers

17/9/97

-2-

Wrs 375.
Encl: one

Bangalore District
Deputy Commissioner's Office
Bangalore 15th September 1897.
16

To,

The Secretary
to the Government of Mysore
Revenue and General Departments.

Sir,

For extending the compound of the Victoria Hospital in the town of Bangalore, the acquisition of the chatram of one Kempanna became necessary. My predecessor made an award for it under the Land acquisition regulation; but the said Kempanna did not agree to it. Therefore the matter was, as per said regulation, referred by my predecessor to the District Judge of the Nandidurg Division for adjudication and the Public Prosecutor of the Nandidurg Division was, as

3

outward B/P 1875/97

per Government order No. 6250-1 of the Mis: 1172 of the 30th ult. November 1896, asked to conduct the case for Government. He did so. The case was decided against Government and, as per personal instructions of the Dewan, I have requested the Government Advocate to prefer an appeal to the Chief Court. I beg to submit herewith for sanction a bill for Rs. 530-14-9 sent by the Public Prosecutor for having conducted the case in the District Judge's Court.

I have the honor to be,

Sir,

Your most obedient servant,

Deputy Commissioner

gms

1897-8

4

To G.T. 33-97-2

The Deputy Commissioner
Nairobi District

Dated 24-9-97

No 3930
Encl 747

This letter No 375 dated the 15th Sept 97 submitting for sanction a bill for Rs 5-30-14-9 being the amount of fee charged by the Public Prosecutor for appearing in the District Judges Court, Nairobi on ~~the case of certain of land~~ original suit No 12 of 1896-7 ~~acquired~~ in connection with the land acquired for the Victoria Hospital.

Has the honour to request to be furnished with a copy of the decree in the suit in question.

By order

Secretary

22/9/97

for Secretary

Gen. 31] 11

OFFICE OF THE
6 AUG 1897
DIWAN OF MYSORE

1897. 98

From The Deputy Commissioner
Bangalore District

To The Secretary to the
Government of Mysore
Rev: & General Departments

Dated 28th September
Despatched 30th Oct/97.
Received 6 Aug 97

General No. G.7.33-97-3
D. No. 423

Enclosure No.

Solicits sanction for Rs 600 to meet the institution fee &c in appeal case against Kempanna regarding certain land acquired for the Victoria Hospital in the City of Bangalore

---

of the case by the Deputy Commissioner - C
10/10/97

Office -

Have written on the subject either in the C or in the Head Office. I cannot understand why it has not been sent to me, or why this report was sent to the Head Branch

(Dump file)

C
10/10/97

The Dy Com. Bangalore has sent up this report for sanction to the institution fee of Rs 600 in appeal case against Kempanna regarding certain land acquired for the Victoria Hospital in the City of Bangalore. The draft sanctioning the expenditure is submitted for orders.

C
12/10/97

The case does not seem to be a fit case for appeal. The Diwan Directs that no further action need be taken -

Map and enclosures returned

Jml
14.10.97

Submitted to the Secretary
C 10/10

Sanction an advance of Rs 600 subject to adjustment on the finalization of the suit

D. No 423

En:

6

Bangalore District
Deputy Commissioner's Office
Camp Chennapatna
28th September 1897

To

The Secretary to the
Government of Mysore
Revenue and General Departments

Sir,

For the extension of the compound of the Victoria Hospital that is now being constructed at Bangalore, it became necessary to acquire the Chatram of one Kempanna. Accordingly the late Deputy Commissioner awarded 10,000/ Rs for it, but Kempanna did not agree to it. So the case was referred by him to the District Judge of the Nundidroog Division. He awarded 17666-2-1½ Rs a. p. The costs amounted to 1137-5-3. When this was represented to the Dewan in person I was directed to instruct the Government Advocate

Advocate to prefer an appeal to the Chief Court. The Government Advocate wants 400 Rs to meet the institution fee, charges for printing the record &c. - I therefore solicit the sanction of Government to draw the money from the Treasury.

I have the honor to be

Sir,

Your most obedient Servant

Deputy Commissioner

Compd
MBD

Gen. 31]

OFFICE OF THE
28
SEP 1897
Mis 1085
OF MYSORE

189 7-98

From The Deputy Commissioner
Bangalore District

To The Secretary to the
Govt of Mysore
Revenue & General Depart

Dated 28th September/97
Despatched 29th October
Received

G.O. 33-974

General No.
No. 417

Enclosure No. One

Secretary's docket No 3930
Mis. 747
of 24th September 97

Submits Copy of the
Nundidroog Division
District Judge's Judgment
in original suit No 12
of 1896-97.

Submitted
1097

Ordered
Please
Secretary
Dep

D. No 417
En: one

Bangalore District
Deputy Commrs Office
Camp Chennapatna
28th September 1897
2nd Octr/97

To

The Secretary to the
Government of Mysore
Revenue and General Departments

Sir,

As required in your docket
No 3930 of the 24th September 1897 I beg
Mis: 747
to submit herewith copy of the Amildary
Division District Judges' judgment in
original suit No 12 of 1896-97.

I have the honor to be
Sir,
Your most Obedient servant;

Deputy Commissioner

Compd
HAD

In the Court of the District Judge

Nundydroog Division

Bangalore the 21st day of August 1897

Before C. Cross Esquire, District Judge

Original suit No. 12 of 1896-97.

Plaintiff		Defendant
The Deputy Commissioner, Bangalore District	}	Kempanna.

Judgment or award

This is a suit under the Land acquisition Regulation.

2. The reference by the Deputy Commissioner is as follows:-

(1) Award by the Deputy Commissioner dated 22nd May 1896 of Rs: 10,000 as Compensation for the defendant Kempanna's Chattrum required for the new Hospital.

(2) Order of Government No. 629/121 dated 13-7-96 approving of the above award.

(3) Notice issued to Kempanna dated 15-8-96, and served on him on the 20th idem.

(4) Petition filed to-day by Kempanna under section 18 of the Land

acquisition Regulation.

(5) Kempanna and his brother Timmappa heard through their Advocate Mr. Narayana Rao.

Order

The award having been approved by Government in the above quoted order, no further sum can be awarded. Rs: 10,000 will be paid to Kempanna as soon as he will take it.

(2) Under Section 18 of the Land acquisition Regulation, the record will be submitted to the District Court, Nundydroog Division, with the additional details required in section 19, as per petition filed to-day by Kempanna.

(3) As the buildings &c required for the Hospital are asked for to enable the D. P. W. to proceed with the work, they will all be taken possession of under Section 16 of the Regulation and made over to the D. P. W.

(4) A reply will be sent to the Chief Engineer with a copy of this order, and the Amildar will be instructed to deliver possession at once. Notices will be served on the parties that the buildings &c have been taken over.

(5) Copies of the award and of this order will be forwarded to the President of the Municipality for information.

3. The defendant filed the following written statement:-

(1) The Chuttrum in dispute is worth Rs. 19,000/-. The defendant caused two lists to be prepared, one shewing the buildings, the dimensions of the ground and the estimated value; and the other shewing the income derived from the Chuttrum these he submitted to the Deputy Commissioner with a petition, they have been forwarded to this Court and may be treated as the defence in this Suit.

(2). In 1891, the Government wished to acquire the Chuttrum in dispute and issued orders not to allow the Carts to stand in the Chuttrum. One Mahomed Hussain Sab, the then owner of the property, objected to part with it for Rs. 10,000/- and wanted a much larger sum - Thereupon, the Government refused to take up the Chuttrum and issued

a license to him allowing him to allow the carts &c to enter the Chuttrum as usual.

(3) As this property had previously been mortgaged to the defendant, he purchased it for Rs. 12,000/ and spent a large sum for repairs &c.

(4) The annual yield of this Chuttrum is Rs: 1017, after deducting the Municipal tax and cost of repairs &c. If 5 per cent per annum is capitalized at this rate, the value of the property comes up to Rs 20,000/.

(5). The defendant informed the Deputy Commissioner that he was willing to take up the site by the side of the Gulika stand near the fort in lieu of the Chuttrum site, provided the estimated value of the buildings therein was paid to him but the Government would not agree to this.

(6). The defendant therefore prays that under section 23, Clause 1 of the Land acquisition Regulation, a Compensation of Rs: 1,000 plus 15 per

per cent on this 14, may be decreed to him.

4. The suit came on for settlement of issues on the 17th December 1896.

5. The plaintiff was represented by Mr. M. Rama Row.

6. The defendant was represented by Mr. S. Narayan Row.

7. The following issues were settled.

(1). What is the extent of the property to be acquired? —

(2). What is the real value thereof?

(3). How much Compensation should be awarded?

8. The suit came on for final disposal on 15th July and 19th August 1897.

9. The parties were represented as before.

10. The plaintiff examined two witnesses and filed the following exhibits.

A. Draft of an estimate of the Value of the Chuttrum.

B. Government Notification No: 361.

dated 15th January 1891, published in the Mysore Gazette dated 24th idem at page 32.

11. The defendant examined five witnesses and filed the following exhibits.

No 1. Detailed measurements &c of the Chuttrum belonging to the de-fendant.

No 2. Receipt granted by the Taluk office to Raja-Vencata Subbiah dated 20. 3. 91.

No 3. List shewing the income and expenditure of the Chuttrum.

No 4. Letter from Moothoosamy Pillay to Defendant dated 23-7-95.

No 5. Registered Sale deed dated 2nd November 1892 executed by Mahomed Hussain and others to the defendant.

Nos 6 to 30 Rental deeds

No: 31. Plan.

No. 32. Petition to the Deputy Commissioner

dated 12-10-96 by the defendant.

16

No 33. Account book produced by defendant.

No 33. A extract from No 33 relating to the Chuttrum.

No: 34. Certified Copy of sale deed dated 6. 11. 94 executed in favor of Raja Tencala Subbiah by Krishnarayu chan.

No: 35. Deposition of Krishna murti Row. before the city municipal office dated 14-3-93.

No: 36. Extract from Cash Book of the city Municipality.

No: 37. Mortgage deed dated 4-2-91 executed in favor of the de-fendant by Mahomed Hussain.

No: 38. Petition of Mahomed Hussain to the Deputy Commissioner.

No: 39. Dy: Commrs order to do- do.

No: 40. Order of the municipal Board to Mahomed Hussain dated 12th March 1892.

No: 41. License dated 24-10-92 to Mahomed Hussain.

No. 42 - 84 Municipal tax receipts granted to defendant.

12. The 1st Issue was framed to meet two objections, viz: (1) the theory that the land on which the Chutter stood did not belong to the defendant, as the Military Dept had only allowed the Chutter to be erected on the site without parting with the right to the land, and (2) the plea of the defendant that the Government measurements were incorrect.

13. The first objection has not been pressed, and the statement of particulars furnished by the Deputy Commissioner sets forth the extent of the property as 1190 "Arkanas", "excluding" "the vacant land", so that the defendant's right to the site is virtually Conceded With regard to the measurements, the Commissioner gives the area as 5104 Square yards, while the Govern. ment measurement list = Exhibit A. shews 5102 square yards; as there is only a difference of 2 square yards.

yards between the two, the Government measurement will be accepted as correct.

14. 2nd Issue. The defendant states that he purchased the chattel for Rs. 12,000/ and spent Rs. 2000/ on repairs and improvements; he now values the property at 19,000/ Rupees, and urges that as he realizes a net profit of more than 1000/ Rupees a year, the capitalized value of this amount at 5 per cent would aggregate a larger sum than he now claims.—

15. The property was originally mortgaged to the defendant, and the fact that he purchased it after the Government had notified their intention to acquire it leads to the inference that the defendant bought the property as a speculation with a view to drive a good bargain with the Government; otherwise he could easily have recovered his mortgage amount from the property, as the sum

was less than the Government offered to pay for the Chutter.

16. The Commissioner appointed by this Court is a P. W. D. man, who has estimated the value of the buildings at Rs: 11,136, from which he says 30 per cent should be deducted on account of old material; in the Government measurement list, however, I note that only 20 per cent is deducted, and this is probably the fair and proper rate to be allowed for depreciation. The value of the property will thus be Rs: 11,136 minus 20 per cent or one fifth, = Rs: 2227, leaving a net sum of Rs: 8909 as the price to be fixed on the buildings.

17. The defendant claims Rs: 1/10 per square yard for the ground; the Government entered Rs: 1/8 as the value in Exhibit A, and this appears to be a fair rate; 5102 square yards at Rs: 1/8 gives a total of Rs. 7653, which is the amount I allow for the land, making a total sum of Rs: (8909+7653)

16562 to be paid to the Defendant as Compensation, plus 15 per Cent payable under Section 23, Clause 2, of the Regulation. (X section 23, clause 2)

18. Under Section 27, clause 2, the Deputy Commissioner will pay all Costs.

/ Signed / C. Cresso
District judge

Memo of Costs payable by the plaintiff to the defendant —

	Amount			Costs incurred by the plaintiff		
fee on Petitions	3	10	-	-	-	-
— on Catalut	-	8	-	-	8	-
—— do —— on Exhibits	2	-	-	-	-	-
—— do —— on processes	22	-	-	2	-	-
Subsistence for witnesses	36	-	-	4	-	-
Transcription fee	4	13	9	-	-	-
Advocate's fee	530	14	9	530	14	9
	599	14	6	537	6	9

/ Signed / C. Cresso
District judge

"Copy"

/ Signed / C. Cresso
District-judge

"Copy"

[illegible]
Dept Comm'r Peace

1 J. 614

Gen. 31

No. 3905 1897.

6-11-97

From The Commissioner Bangalore Dist.

To The Secretary to Govt. of Mysore Rev. & Genl. Depts.

Dated 3rd

Despatched 4th } November

Received } 4.7.33-97

General No.

D No. 558

Enclosure No.

This office letter No. 423 dt 28th Sept. 1897.

Requesting early sanction to Rs 400/- required in connection with the prosecution of Appeal against decision of Addl. Judge, Lands & Revn. in Case No. 12 of 1896-97 (Dy. Comr. vs Kempanna) —

Vide his No. 5010/996 98 dt 11-97

J 6-11-97 13/11/97

Bangalore District
Dy Commissioners Office

D. No. 558 Bangalore 3d November/97
4th

To

The Secretary to the Government
of Mysore,
Genl & Rev Departments.

Sir,

I have the honor to request that you will be good enough to obtain the early sanction of Government to the sum of Rs 400/- applied for in this Office letter No. 423 of the 28th September/97, to meet the cost of institution fee and other charges in connection with the prosecution of the appeal preferred to the Chief Court against the decision of the District Judge of the Nundydroog Division in the case marginally noted, as the Government Advocate in his letter No. 85 dated the 1st Instant, writes: that the time for appeal is ex-

* Case No. 12 of 1896-97 (The Dy Commissioner Hempanna) regarding the acquisition of Defendants chatram for the Victoria Hospital at Bangalore.

~~proceeding~~ enquiry. —

I have the honor to be,

Sir,

Your most Obedient Servant

H. Venkatasar. Jr

Dy Commissioner

mm

G. Mis

G.J.33-97-6

(20)

Read.

Letter No 423 & 28 Sept. 897 from the Dy Comr Bangalore Dt. requesting that a sum of Rs 400 may be advanced to the Govt advocate to enable him to file an appeal in the Chief Court against the award of the District Judge of Bangalore on the claim of one Kempanna for compensation in respect of a Chattram & lands acquired for the purposes of the Victoria Hospital at Bangalore.

Order No 5220.
Ins 996 98 dtd 8-11-97

Having perused the case of the Dt Judge remanded by the Govt vide No D 417 dt 28th Feb 97 Govt are of opinion that it is undesirable to prefer an appeal from the Chief Court - the advance asked for is unnecessary.

8-11-97

To the Deputy Comm- Bangalore Dt.

No 45 1897 1/1 (21)

G.F. 39-97-7

Read:- Letter No 375 of the 15th September 1897 from the Deputy Commr. Bangalore District, submitting for sanction a bill for Rs: 530-14-9 being the amount of fees due to the Public Prosecutor, Nandidrug Division, for having appeared and conducted the original suit No 12 of 1896-97 (The Dy Commr, Bangalore Distt ~~vs~~ Kempanna on the file of the Court of the Distt Judge, Nandidrug Dn, in Connection with certain lands ~~required~~ acquired for extending the Compound of the City Victoria Hospital.

Order No S 253-4 dt 10-11-97 from No 1002

The bill is sanctioned and forwarded to the Comptroller for audit.

10-11-97

To The Dy Commr Bangalore Distt ... Comptroller with bill

Secy 10/11/97